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ABSTRACT

The goal of this mock trial is to dramatize the Federalists' struggle to strengthen their control over the judicial branch of the U.S. government after losing the Presidency and Congress in the 1800 election. This mock trial reveals the personalities of key historical figures, such as Jefferson, Madison, and Marshall and distinguishes how they used the letter and spirit of the law to shape the three branches of government. Approximately four class periods are needed for the trial. During the first class period, the teacher gives an introductory lecture and assigns roles for the play. The students work on their roles during the second class period. The mock trial takes place during the third class period and requires approximately 40 to 50 minutes. The student newspaper reporters turn in news stories of the trial during the fourth class period, and the class may have a follow-up discussion. The learning packet includes: (1) the overview of the facts and issues in the case; (2) instructions for the three plaintiffs' attorneys and their opening statements; (3) instructions for the three defendants' attorneys, including opening arguments; (4) instructions for the clerk of court and a courtroom diagram; (5) instructions for the justices; and (6) instructions for newspaper reporters. A 6-item bibliography and auxiliary activities are included. (SM)

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"The Midnight Judges Ride Again"

Marbury v. Madison

Mock Trial
Prepared For Classroom Use By

Mary A. Price

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Framework:

I. Goals

II. Objectives

III. Lesson Plans/ Procedures

IV. Evaluation

V. Packet of Teacher-Developed Materials

VI. Alternate/Auxiliary Activities or Projects

VII. Bibliography

Title of Unit: "The Midnight Judges Ride Again"
Length of Unit: Three (3) Days
Classes: Appropriate for U. S. History or Government, average or accelerated
Grade Level: 11 or 12
Date: 05. January, 1988

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I. Goals:

The mock trial, Marbury v. Madison, 1803, is important for historical and political reasons. It is appropriate for use in average, accelerated, or A.P. classes of U.S. History as well as Government at the 11th or 12th grade levels. These High School classes should range in size from 15 to 30 students.

The goal of the mock trial for U.S. History classes is to dramatize the political struggle of the Federalists in their attempt to strengthen their control over the judicial branch, having lost both elected branched of government in the Election of 1800. Its further goal is to show how the Supreme Court strengthened the central government by using their power of "judicial review" in striking a legislative act of congress for the first time. As a simulation the mock trial reveals the personalities of key historical figures such as Jefferson, Madison and Marshall, and distinguishes how they used the letter and spirit of the law to shape the three branches.

The experience of simulating the trial procedure and deliberation is valuable for Government or U.S. History students. For Government classes the goal is to enhance the study of the judicial branch. Students will discover the value of the law and Constitution. They will discover how the law facilitates or restricts the actions of all persons including the president, legislators, and judges.

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II. Objectives:

It is anticipated that 90 per cent of students for whom this lesson is targeted will accomplish at least six of the following objectives:

1. Students will discover the value of law and the Constitution in their political system by using both in the course of deliberation in the trial.

2. Students will experience the use of primary sources by employing the Judiciary Acts of 1789 and 1801 in deliberating the case.

3. Students will develop and refine debate skills in presenting and defending arguments in the case.

4. Students will demonstrate knowledge of the historical and political lessons of the case by using same in deliberating the case.

5. Students will experience the protocol of Supreme Court procedure.

6. Students will retain more of the knowledge of the case that they have acquired by using it in debate.

7. Students will demonstrate a working knowledge of court vocabulary i.e., "writ of mandamus", original and appellate jurisdiction, legal remedy, litigants, etc.

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III. Lesson Plans/Procedures:

Day 1:

I. Lecture

A. Explain the Election of 1800 and how it tipped the two elected branches in favor of the Democratic/Republicans or Anti-Federalists.

B. Explain the attempt of President Adams and the legislature to secure additional federal judgships in the Judiciary Act of 1801.

C. Explain the "Case of the Midnight Judges" and Madison's refusal to deliver the commissions.

II. Have students read "Facts of the Case" summary (included in mock trial materials) in class if time permits, or as an assignment between days one and two.

III. Review glossary of terms (in materials) and explain further if necessary.

IV. Assign roles and distribute directions for each role (in materials). Increase or decrease number of judges or press corps members to fit the size of the class. Explain that there were originally five justices, but that over the years the number has increased to nine. Explain Supreme Court procedure including absence of jury and witnesses.

Day 2:

Allow students to work on roles in class meeting with each group of roles as appropriate. If this is the first mock trial the class has experienced students may require extended instructions. Be sure attorneys have all documents(they will need for presentation to judges) to which they will make argument reference. This may include the Constitution or laws (in materials) they will use in their arguments.

Instruct the press that they will be writing a newspaper article about the proceedings. Suggest a format and indicate what the press should expect. Have the members of the press write questions and expectations during this time.

Day 3:

Before class begins the clerk should arrange desks according to diagram (in naterials). Have a gavel and clock for the clerk. After all rise for the entrance of the justices and the clerk calls "this honorable court" to order, the trial begins. It will take 40 to 50 minutes. After all three issues in the case have been deliberated, justices may recess to find their opinion.

Day 4:

Reporter's stories are due. As time permits, read aloud and discuss lessons of the case following guidlines stated in "goals"

IV. Evaluation:

A. While roles are being prepared the teacher should observe the quality of effort the student puts into preparation as a basis for evaluation.

B. During the trial the teacher should evaluate the strength of arguments by attorneys, quality of questions, cross questions, demands and quality of conclusion of judges, and organization of clerk(s).

C. Press will be evaluated by the quality of their newspaper article in covering the case.

D. Written questions, objective or essay, should be included as part of the exam for the unit of which the trial is a part. All students are evaluated on the same basis in this part of the evaluation.

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V. Packet of Materials:

The attached packet of materials is ready for classroom use. Documents are included except the Constitution which can be taken from any U.S. History or Government text.

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Mock Trial: Marbury v. Madison

Rolls and Instructions:

Facts of the Case (General Scenario for all parts)

3 Attorneys for Plaintiff (Instructions for each argument)

3 Attorneys for Defendant (Instructions for each argument)

1 Clerk of Court Instructions and Diagram

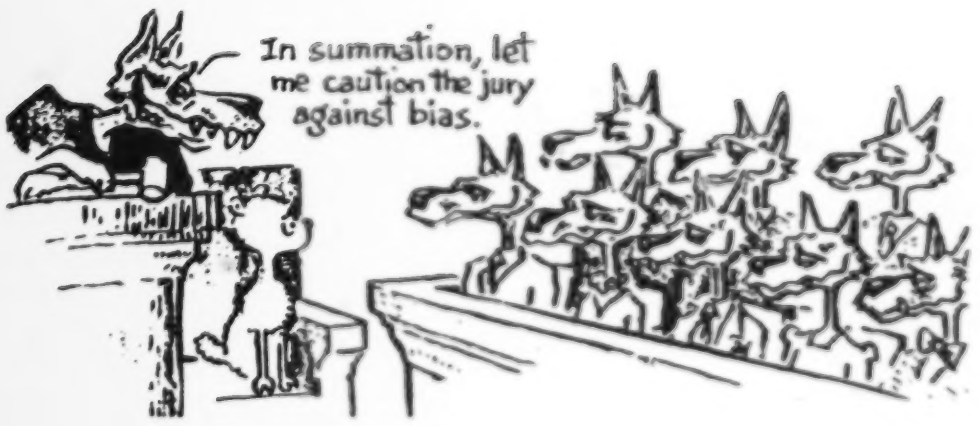
9 Justices (One Chief Justice) Instructions

Newspaper Reporter Instructions

Commission for Judge Marbury

Judiciary Act of 1789

Judiciary Act of 1801



United States Supreme Court
In the County of Washington, District of Columbia

William Marbury, Plaintiff
V.
James Madison, et. al., Defendant

FACTS OF THE CASE:

Marbury against Madison ranks as the most important decision in the early history of our country. For the first time, the Supreme Court declared an act of Congress unconstitutional. This historic decision established the court's power of judicial review, which has become a fundamental principle of American constitutional law.

In the election of 1800, the Federalists lost control of the legislative and executive branches of the government. They sought to obtain control of the third branch, the judiciary, by the appointment of many new federal judges. William Marbury received one of those appointments. His commission as Justice of the Peace for the District of Columbia was signed by the president, John Adams, and the seal of the United States was duly affixed to it.

But due to the negligence of the Secretary of State, Marbury never received his commission. Thomas Jefferson, the new president, ordered his Secretary of State, James Madison, to withhold the commission. Marbury, under provisions of the constitution, sued to the Supreme Court for a writ ordering Madison to issue his commission.

Behind the legal issues were the political facts of 1803. The Federalist Supreme Court was engaged in a struggle for power and prestige with the Democratic administration.

Now the court was on the horns of a dilemma. If it ruled that Marbury was not entitled to his commission, it would look as if the court had retreated in the face of Jefferson's stubborn stand. But if the court did issue the writ, Jefferson was likely to ignore it. The court, having no way to enforce the writ, would lose face.

The opinion of the court by Mr. Justice John Marshall: "The following questions have been considered and decided:

1. Has the applicant, Mr. Marbury, a right to the commission he demands?
2. If he has a right, and that right has been violated, do the laws of this country afford him a remedy?

3. If they do afford him a remedy, is it a writ of mandamus issuing from this court?

The first object of inquiry is: has the applicant a right to the commission he demands? Mr. Marbury, since his commission was Justice of the Peace was signed by the President and sealed by the Secretary of State, was legally appointed and as the law creating the office gave the officer the right to hold it for five years independent of the executive, the appointment was not revocable, but vested in the officer, a legal right protected by the laws of his country. To withhold his commission, therefore, is an act deemed by the court not warranted by law but violative of a vested legal right.

As to the second inquiry, if he has a right, and that right has been violated, do the laws of his country afford him a remedy? The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the law whenever he receives an injury. One of the first duties of government is to afford that protection. The government of the United States has been emphatically termed a government of laws and not of men. It will certainly cease to deserve this high appelation if the laws furnish no remedy for the violation of a vested legal right. It is then, the opinion of the court, that having this legal title to the office, Marbury has the consequent right to the commission, the refusal to deliver which is a plain violation of that right for which the laws of his country afford him a remedy.

It remains to be inquired whether he is entitled to the remedy for which he applies. This is a plain case for a writ of mandamus to deliver the commission and it only remains to be inquired whether it can issue from this court. The Judiciary Act of 1789 authorizes the Supreme Court to issue writs of mandamus to persons holding office under the authority of the United States. Now, the constitution does not give Congress the power to increase the original jurisdiction of this court. To enable this court then to issue a writ of mandamus it must be shown to be an exercise of Appellate Jurisdiction.

Yet to issue such a writ to an officer for the delivery of a paper is, in effect, the same as to sustain an original action for that paper, and, therefore, seems not to belong to Appellate, but to original jurisdiction.

ISSUES OF THIS CASE:

1. Does William Marbury have a right to the commission he demands?
2. If he does, and that right has been violated, is there a law which gives him recourse? (is there anything he can do about it?)

ISSUES OF THIS CASE: (cont.)

3. If there is recourse, is it a WRIT of MANDAMUS?
   - A. Can a writ of mandamus legally be issued from the Supreme Court?
   - B. What law gives the supreme court this jurisdiction (authority).
   - C. Is there any other document dealing with the supreme court's authority in this area, and is it in agreement with the law?
   - D. If it is not, which should govern the case to which they both apply?

TERMS TO UNDERSTAND IN THIS CASE:

Writ of Mandamus: A legal order from the supreme court demanding that Secretary of State, James Madison, must deliver the commission to William Marbury.

Commission: The legal paper giving William Marbury the position to which he has been appointed. It must be signed by the president of the United States who makes the appointment, and sealed by the secretary of state who delivers the document.

Jurisdiction: Authority given the court by law to deal with a given area or situation. Also given by the constitution.

Original Jurisdiction: The court is given by law or constitution the authority try a case for the first time. In Original Jurisdiction the case does not have to be appealed from a lower court, but must "originate" in the court designated by law or constitution.

Appellate Jurisdiction: By law or constitution the given area or situation must have been appealed to the supreme court by a lower court. An appeal may be made to revise and correct a case already instituted in a lower court. If a court is given appellate jurisdiction it may not institute or create that case.

INSTRUCTIONS FOR THE ATTORNEYS FOR THE PLAINTIFF

As Attorneys for the Plaintiff, your job is to present the evidence that you think will show that Mr. Marbury is entitled to the commission for which he applies, and that the Supreme Court should command proceedings to see that it is delivered. Your job consists of the following parts:

1) Opening Statement to the Court: After court is opened by the clerk you will have a chance to make a five minute summary of what you think the evidence in the case will show. This should include a brief overall summary of the facts.

2) Presentation of Arguments: You will present the first part of your first argument, summarizing in your own words. Then the judges will have a chance to ask you any questions they choose. After questions, you then make the next argument of the first point, etc. until all arguments from the first point are made and all questions of the judges are answered. Then the Attorneys for the Defendants will make their first point in the same manner. Then you start the second point, etc.

3) Closing Argument: When you have made your points and answered questions you will have a chance to make a closing statement. You should try to summarize the main strong points of your case, emphasize any weak points of your opponents which show that Mr. Marbury should get his commission and that the Supreme Court should comand its delivery.

OPENING ARGUMENT OF THE ATTORNEYS REPRESENTING THE PLAINTIFF:

The opening argument should include the following points:

1. That William Marbury is entitled to his appointment as federal judge in the District of Columbia.

2. A list of facts you will present to support your case.

3. That this suit seeks to establish that Mr. Secretary of State, James Madison, and the present administration violated William Marbury's right to due process of law.

4. That the supreme court should take action to see that Mr. Marbury's right to due process of law is honored, and his commission delivered.

FIRST POINT TO BE ADDRESSED BY THE PROSECUTION:
(PLAINTIFF)

The applicant, William Marbury has a right to the commission for which he applies:

In the presentation of your argument covering the first point, the following should be brought out:

1) Mr. Marbury is entitled to his commission according to an act of congress in February, 1801, concerning the district of Columbia. The 11th section of this act says the president may appoint as many justices of the peace as he sees fit to the District of Columbia for five year terms. Thus the president does not have the power to remove a justice once the appointment is complete. Where an officer is removable at the will of the president, the completion of his appointment is of no concern because the act can be revoked.

2) An act of congress directs the Secretary of State to seal and deliver a commission which is signed, and not to be guided by the will of the president (Jefferson).

3) Because the president has the power to appoint Mr. Marbury under Section 2, Article 2 of the Constitution of the United States; and because he performed his last act in this appointment (the signing of the commission), the commission is complete. The commission is complete when the last act required from the person possessing the power to issue it has been performed. This last act is the signature.

4) The case of a deed to property requires the owner to have the deed in his possession before the property can be considered transferred. The case of a commission is different since the law requires the Secretary of State to seal and deliver a signed commission. Thus the office is transferred when the commission is signed.

SECOND POINT TO BE ADDRESSED BY THE PROSECUTION: (PLAINTIFF)

If Mr. Marbury's right to the commission has been violated, does the law afford him a remedy (is there anything he can legally do about it)?

In the presentation of your argument covering the second point, the following should be brought out:

1) Civil liberty (the liberty entitled to individuals) consists of the right of every individual to claim the protection of the laws. It is one of the first duties of government to give that protection. The government of the United States is one of <u>laws</u> and <u>not</u> one of <u>men</u>. If there is no legal way for Mr. Marbury to take action when his legal rights have been violated, then the United States does not deserve to be called a government of <u>laws</u>.

2) The senate is designated to nominate officers of government. The president is designated to appoint officers of government. If by law the president has the power to remove the appointee, he can be removed at once and a new person appointed. The first appointee then has no rights. If the appointee is not by law removable, then his appointment is protected by law and the president cannot change it.

THIRD POINT TO BE ADDRESSED BY THE PROSECUTION:

If the law affords Mr. Marbury a remedy is it a mandamus issuing from this court? (Is he entitled to the action for which he applies?)

In the presentation of your argument covering the third point, thefollowing should be brought out:

1) In the case of the King vs. Baker et. al., it is stated that when a person is kept out of a position and there is no specific law to help him, the court must help him by issuing a writ of mandamus. The writ should be directed to an officer of government demanding him to do a specific action.

2) The value of a public officer cannot be determined since it cannot be bought or sold. Thus Mr. Marbury has a right to the office itself -- or to nothing. Therefore, no other settlement could be made other than to order the commission delivered through a writ of mandamus.

INSTRUCTIONS FOR THE ATTORNEYS FOR THE DEFENDANT

As Attorneys for the Defense, your main job is to show that Mr. Marbury is not entitled to his commission and that the Supreme Court is legally prohibited from demanding the delivery of it. Your job consists of the following parts:

1) Opening Statement to the Court: After the Plaintiff's Attorneys have made their opening statement, you will have five minutes to summarize what you think the evidence in the case will show. You should try to point out the weaknesses of the Plaintiff's case and a brief summary of the facts you will present.

2) Presentation of Arguments: After the Attorneys for the Plaintiff have given their entire first point and all questions have been answered, you will present the first part of your first point. Then the judges will have a chance to ask you questions. After questions are answered, you then make the next argument of the first point, etc., until all parts of the first point are made and all questions answered. Then the Attorneys for the Plaintiff will proceed with the second point, etc.

3) Closing Argument: When all points are made and all questions answered, the Attorneys for the Plaintiff will make a closing statement. Your closing statement will follow theirs. You should try to summarize the main strong points of your case, emphasize the weak points of your opponents which show that Mr. Marbury is not entitled to his commission and the Supreme Court would be acting in an unconstitutional manner if it issued a writ of mandamus in this case, and the law allowing it is thus unconstitutional.

OPENING ARGUMENTS OF THE ATTORNEYS REPRESENTING THE DEFENSE:

The opening arguments of the Defense attorneys should include the following:

1: A statement to the effect that Mr. Madison is innocent of the charges brought against him, and that he does not have to deliver the commission to Mr. Marbury, and that Mr. Marbury is not entitled to the commission. And that the court cannot force Mr. Madison to deliver the commission because it does not have the power to do so in this particular case.

2: A list of facts which will come out in the trial which will show that the commission does not need to be delivered and that Mr. Marbury is not entitled to it, and that the court is powerless to demand delivery in this case.

OPENING ARGUMENTS OF THE ATTORNEYS REPRESENTING THE DEFENSE:

The opening arguments of the Defense attorneys should include the following:

1: A statement to the effect that Mr. Madison is innocent of the charges brought against him, and that he does not have to deliver the commission to Mr. Marbury, and that Mr. Marbury is not entitled to the commission. And that the court cannot force Mr. Madison to deliver the commission because it does not have the power to do so in this particular case.

2: A list of facts which will come out in the trial which will show that the commission does not need to be delivered and that Mr. Marbury is not entitled to it, and that the court is powerless to demand delivery in this case.

FIRST POINT TO BE ADDRESSED BY THE DEFENSE:

Does the applicant, William Marbury have a right to the commission for which he applies:

In the presentation of your argument covering the first point you should try to disprove Marbury's right to the commission by bringing out the following arguments and any others you can think of in response to the statements of the prosecution:

1) William Marbury's commission was signed by President John Adams but it never reached Mr. Marbury while Mr. Adams was president, thus Mr. Marbury is not now entitled to his commission under the existing administration.

2) In the case of a deed, one does not own property until one has the deed in his possession. Since Mr. Marbury did not have the commission in his hand, the appointment was incomplete, and he is not entitled to it.

SECOND POINT TO BE ADDRESSED BY THE DEFENSE:

If Mr. Marbury's right to the commission has been violated, does the law afford him a remedy (is there anything he can legally do about it)

In the presentation of your argument covering the second point, you should try to prove that no remedy is in existence covering this case by bringing out the following argument, and any others you can think of in response to the statements of the prosecution.

1) If there is no recourse (if there is nothing Marbury can do), a law may be made to provide one. But Marbury may not exercise such a law in this case because it would not have been law at the time in question. This would be an ex post facto law (a law making something a crime after it was already committed) which is forbidden by an amendment to the constitution.

THIRD POINT TO BE ADDRESSED BY THE DEFENSE:

If the law affords Mr. Marbury a remedy is it a mandamus issuing from this court? (Is he entitled to the action for which he applies

In the presentation of your argument covering the third point you should try to show that a writ of mandamus cannot issue from the supreme court in this type case.

1) The Judiciary Act of 1789, Section 13, authorizes the Supreme Court to issue writs of mandamus to persons appointed to public office. The Secretary of State is such an officer. Thus, is the Supreme Court cannot issue a writ of mandamus, it must be because the law is unconstitutional.

2) Article III, Section 2 of the United States Constitution states that the Supreme Court has original jurisdiction in all cases affecting foreign ambassadors and foreign consuls, and when a case involves a state. In <u>all other</u> cases the supreme court has appellate jurisdiction.

*** To enable the supreme court to be able to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction. To issue a writ of mandamus to an officerfor delivery of a commission is an <u>original</u> action and therefore belongs to original jurisdiction. Therefore, any law of congress ordering the supreme court to issue a writ of mandamus to public officers appears unconstitutional.

3) Can an act which violates the constitution remain law? It is the duty of the <u>judicial branch</u> to say what law is The constitution is either a superior paramount law, unchangeable by ordinary means -- or it is on a level with ordinary legislative acts and congress can alter it. If the constitution is superior to legislation, then an act contrary to the constitution is <u>not</u> law.

If the constitution is not superior to the law then it is an absurd attempt to limit power which cannot be limited!!

4) Judges are required to take an oath to support the constitution before entering office. How could they be expected to violate what they swear to support.

5) Article VI, Section 2 states that the constitution is the <u>supreme</u> law of the land. Therefore a law which does not agree with it is void. Thus the Judiciary Act of 1789 must be discharged.

INSTRUCTIONS FOR THE CLERK

Ms. Price has supervision over the trial. Your primary responsibility is to maintain order in the courtroom and to see that the trial is run in an orderly manner.

As Clerk of the Court, you must:

1) Assist Ms. Price in the direction of the trial.

2) Check before the trial to see that the courtroom has been set properly.

3) Immediately after the class is over see to it that the room is returned to order. Return all papers, gavels, etc.

4) Bring court to order by reading the official Opening of Court as follows:

"The United States Supreme Court in the County of Washington, District of Columbia is now open andin session. The Honorable Chief Justice John Marshall presiding. All persons having business before the court come to order!"

Case of William Marbury, Plaintiff, versus James Madison, Defendant.

Are the Attorneys for the Plaintiff ready? (let them answer)

Are the Attorneys for the Defendant ready? (let them answer)

Your Honor, may the Attorneys make their opening statements?

5) After opening statements, the Plaintiff's Attorneys will address their first point by presenting an argument. The justices will then ask questions, followed by any additional arguments for the first point. After the Defendant's Attorneys will repeat the process. Then proceed to second point, etc.

When all arguments are completed, the Clerk will rise and request any closing statements from Prosecution, then Defense.

Then the Justices will mediate and reach a conclusion, which they will present.

When the justices return, you should call roll asking each for his opininion in the case. Begin with Chief Justice, John Marshall, followed by the oldest justice, next oldest, etc. Next you will ask for a vote for each indicating to the court a yes vote is in favor of the Plaintiff, a no vote is in favor of the defendant. Start this roll call with the youngest justice, ending with the Chief Justice. A separate roll should be called on each of the three issues.

Following the vote, the Clerk will announce, "The Supreme Court i now adjourned".

JUDGES

1 2 3 4 5 6 7 8 (9)

CLERK CLERK

1 2 3 4 5

1 PLAINTIFF'S ATTORNEYS

1 2 3 4 5

2 DEFENDANTS ATTORNEYS

PRESS

INSTRUCTIONS TO THE JUSTICES (JUDGES)

Your job as justices in this trial is to make sure that the procedure of a trial is followed so that both sides have a chance to present their cases. Plaintiff's Attorneys and Defense's Attorneys must have an opportunity to present arguments and answer questions, but it must be at the right time.

The order that the case will follow is that the Plaintiff's Attorneys will make the opening statement, followed by the Defendant's Attorneys Next the Plaintiff's Attorneys will make the first argument of their first point. Next any justice may address any questions to them. After questions, the next argument of the first point will be made, followed by questions, etc., until the first point of the Plaintiff is complete. Next the Defendant's Attorneys make their first point in the same manner, etc. Each side will have three main points with several sections each.

After the points and questioning, the Plaintiff's Attorneys will make a closing argument for five minutes, and the Defendant's Attorneys can follow with their closing argument.

After this, you will adjourn to deliberate how you feel about each of the three main points of the case and what your individual decisions are for each. When you return to the Court after deliberation, you will each give a brief opinion on the case in the following order: Chief Justice John Marshall first, followed by the oldest justice, second oldest, etc. Next you will each vote yes in favor of the Plaintiff or no, in favor of the Defendant in each of the three issues of the case. The voting will take the reverse order, youngest first, Chief Justice Marshall last. After the voting, the clerk will adjourn court.

CONCLUSION

The authority, therefore, given to the Supreme Court by Congressional Act, the Judiciary Act of 1789, to issue writs of mandamus to public officers appears not to be warranted by the Constitution. And it becomes necessary to inquire whether a jurisdiction so conferred can be exercised. If a law be in opposition to the constitution, if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution, or, conformably to the constitution, disregarding the law, the court must determine which of these conflicting rules governs the case. This is the very essence of judicial duty.

If then, the courts are to regard the constitution and the constitution is superior to an ordinary act of the legislature, The constitution, and not such ordinary acts, must govern the case to which they both apply. An act of the legislature repugnant to the constitution is void."

INSTRUCTIONS TO REPORTERS

Your job is to collect the important events in the case on a daily basis and summarize them in a report at the end of the trial for the media. The following are points to look for:

1. Prosecution or Defense makes a strong point for his case.

2. A strong point is successfully refuted by the opposition.

3. Any conclusions reached by the justices.¢

Be sure to get the names of all people accurately for your story. Be sure to report only the important events - weed out the unimportant ones. Your report can take the form of a newspaper article or a T.V. or radio broadcast. (Let me know today if you choose to do the broadcast so I can allow class time at the end of the trial.)

Length: The broadcast should not exceed ten minutes.
The article should not exceed three pages.

C O M M I S S I O N

The honourable WILLIAM H. MARBURY is hereby appointed to the position of FEDERAL JUSTICE OF THE PEACE of these United States, in accordance with the United States Statutes at Large of the Federal Judiciary; To hold independently of the Executive for a period of FIVE years; said power as vested by the legal rights and laws of this Nation.

Signed John Adams
President of the United States

Sealed before me this 27th day of February. 1801
John Marshall
Secretary of State

VI. Alternate/Auxiliary Activities or Projects:

Once students have had the experience of presenting a trial in this highly structured format, they have been stimulated in the past to deliberate additional trials. Once they know the format, they will be able to do their own research from a comprehensive article about the facts of the case or from Supreme Court Case Studies reference listed in the attached bibliography (VII).

In the past they have expressed interest in deliberating cases which have not been decided by the court. The background for this could come from comprehensive articles about the issue from news periodicals. This type of deliberation highly motivates students to follow the court's proceedings to see if they were "right".

If these experiences could be followed with a field trip to a federal court's proceedings or district court trial it would provide the students with an unforgettable and meaningful experience.

"The Midnight Judges Ride Again"

Marbury v. Madison

Mock Trial
Prepared For Classroom Use By
Mary A. Price

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